

# Wiley, Rein & Fielding

1776 K Street, N.W.  
Washington, D.C. 20006  
(202) 719-7000

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

MAY 20 4 59 PM '99

**Trevor Potter**  
(202) 719-4273  
tpotter@wrf.com

Fax: (202) 719-7049  
www.wrf.com

May 20, 1999

Jose M. Rodriguez, Esq.  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W., Room 657  
Washington, D.C. 20463

Re: MUR 4758 (C. Boyden Gray)

Dear Mr. Rodriguez:

This letter is submitted on behalf of C. Boyden Gray in response to the General Counsel's Factual and Legal Analysis and transmittal letter from Commissioner Scott E. Thomas dated March 25, 1999 (collectively "Analysis") in this MUR. On June 17, 1998, the Federal Election Commission notified Mr. Gray and Ms. Jeanne Fletcher, Mr. Gray's secretary, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("FECA"). On March 5, 1999, the Commission found that there was no reason to believe that Mr. Gray and/or Ms. Fletcher violated 2 U.S.C. § 441f or that Mr. Gray violated 2 U.S.C. § 441a(A)(1)(C). The Commission found, however, that Mr. Gray exceeded the \$25,000 yearly aggregate contribution limit (for 1994 and 1998) and the \$1,000 per election contribution limit (to Jim Miller for U.S. Senate 1994 Committee and the Hatch 2000 Election Committee) in violation of 2 U.S.C. §§ 441a(a)(1)(A), (a)(1)(B), and (a)(3), and informed Mr. Gray of this finding. Thereafter, we met with you to review the Analysis, and to indicate specific areas where we believed it to be erroneous. You concurred with our review and indicated you would so inform the Commission. Thus, Mr. Gray has now taken all possible steps to be in full compliance with the election laws. Because of Mr. Gray's efforts, all appropriate refunds, redesignations or reattributions have been made or received, with the exception of the Miller Committee (which has a debt and no funds to effect a refund). We therefore request that the Commission take no further action in this matter.

## FACTUAL DESCRIPTION

Mr. Gray relies on and hereby incorporates the information (including the FEC data and Mr. Gray's financial records and correspondence) contained in Respondents' Original Response filed July 31, 1998 ("Original Response").

Jose M. Rodriguez, Esq.  
May 20, 1999  
Page 2

## **LEGAL ANALYSIS**

### **I. Mr. Gray Is In Compliance With The \$25,000 Annual Federal Individual Contribution Limit.**

As described below, Mr. Gray has not exceeded the \$25,000 annual federal individual contribution limit in 1994 or 1998. Mr. Gray's 1994 contribution total is \$24,898. His 1998 total is \$23,100.

#### **A. 1994**

The Analysis found that Mr. Gray failed to identify an additional \$500 contribution in the calculation submitted in the Original Response. Thus, according to the Analysis, Mr. Gray's aggregate federal contributions for 1994 do not stand at \$24,898, but rather at \$25,398: \$398 in excess of the annual limit.

The Analysis correctly states that a \$500 contribution was made on February 19, 1993 to the Portman for Congress Committee. The Analysis presumes this contribution was for Representative Portman's 1994 election campaign. Instead, as demonstrated on records available at the FEC, the contribution was for Representative Portman's 1993 special election campaign (primary election, March 16, 1993; general election, May 4, 1993). Accordingly, the \$500, February 19, 1993, contribution to the Portman for Congress Committee must be calculated in Mr. Gray's 1993 aggregate contributions and can not properly be included in his 1994 totals. Mr. Gray's 1994 total remains therefore at **\$24,898**.

#### **B. 1998**

The Analysis found that Mr. Gray exceeded the \$25,000 annual limit by \$600 as evidenced by an attached schedule listing the Office of General Counsel's analysis of Mr. Gray's 1998 contributions. Again, the Analysis attributed contributions to the wrong year. In this case, three contributions were improperly attributed to 1998: (1) a \$1,000, May 28, 1997, contribution to the Hatch Election Committee; (2) a \$1,000, March 8, 1998, contribution to the Hatch Election Committee; and (3) a \$500, May 18, 1998, contribution to the Hagel for Senate Committee. Senator Hatch is not up for reelection until 2000; Senator Hagel is not up for reelection until 2002. Thus, \$2,000 of the purported 1998 contributions should be attributed to Mr. Gray's 2000 aggregate total and \$500 should be attributed to 2002. Mr. Gray's 1998 aggregate contribution total is therefore **\$23,100**.

Jose M. Rodriguez, Esq.  
May 20, 1999  
Page 3

**II. Mr. Gray Has Requested A Refund Of His \$500, February 4, 1994, Contribution To The Jim Miller For Senate Committee, But The Committee Has Failed To Honor Mr. Gray's Request.**


The Analysis acknowledged that Mr. Gray sought a \$500 refund from the Jim Miller for Senate Committee, but questioned whether the Miller Committee had honored that request. As we agreed during our April 8, 1999 meeting, the Miller 1994 primary campaign was unsuccessful and the Committee remains in debt with no apparent ability (several election cycles later) to refund \$500 to Mr. Gray. Accordingly, Mr. Gray has done all in his power to obtain the \$500 refund for the 1994 primary.

**III. Mr. Gray Has Received A \$1,000 Refund From The Hatch 2000 Election Committee Thereby Ensuring That Mr. Gray Is In Compliance With The \$1,000 Per Election Contribution Limit.**

Mr. Gray acknowledges that he made two \$1,000 contributions to the Hatch Election Committee and that both contributions were designated as primary 2000 contributions by the Hatch Committee. Mr. Gray therefore has requested and received a refund of \$1,000 from the Hatch Committee. See Att. A. Accordingly, Mr. Gray has currently made only a single \$1,000 contribution to the Hatch Committee for the 2000 primary election. As such, Mr. Gray is now in compliance with the \$1,000 per election contribution limit.<sup>1</sup>

Thank you in advance for your assistance in this matter.

Sincerely yours,

  
Trevor Potter  
Kirk L. Jowers

Enclosure

---

<sup>1</sup> Mr. Gray previously informed the Commission of a \$500 refund from the Hatch Committee for the 1994 General Election. This refund is already included in the Commission's 1994 calculations and is confirmed in the letter from the Hatch Committee at Attachment A.

UNITED STATES SENATOR  
*Orrin Hatch*

A

May 13, 1999

C. Boyden Gray  
1534 28th Street, NW  
Washington, DC 20007

Dear Mr. Gray:

On behalf of Senator Orrin Hatch, our sincere thanks for your generous contribution.

In the process of auditing our records we discovered that your contribution limit for the primary election was exceeded. We had previously applied the refund of June 12, 1998 to the 2000 Primary election limits. However after speaking with your attorney's we have now applied this refund to the 1994 general election. To clear up any discrepancies the refunds we have given to you were applied as follows:

6/12/98	500.00	1994 General Election
5/04/99	500.00	2000 Primary Election
5/13/99	500.00 (Enclosed)	2000 Primary Election

The enclosed refund now brings your total applied contribution to the 2000 Primary election to the maximum limit of \$1,000.

We appreciate your assistance in this matter, which will help the campaign to comply with all federal requirements.

Thank you again for your support and generous contributions. Please do not hesitate to contact us at (801) 328-8173.

Sincerely,

*Corie Chan*

Corie Chan  
Assistant Treasurer

257 East 200 South, Suite 450, Salt Lake City, UT 84111 • 328-8173

Paid for by the Hatch Election Committee

**HATCH ELECTION COMMITTEE**

257 E 200 S, #950  
SALT LAKE CITY, UT 84111  
PH 801-328-8173

Five hundred dollars and 00 cents

BRIGHTON BANK  
CITY CENTER OFFICE  
SALT LAKE CITY, UTAH 84111  
97-250-1243

2192

DATE  
05/13/99

AMOUNT  
\$500.00

Pay to the order of

C. BOYDEN GRAY  
1534 28TH ST., N.W.  
WASHINGTON, DC 20007

*John Wood*

⑈002192⑈ ⑆124302503⑆66 01354 6⑈

ATCH ELECTION COMMITTEE PH. 801-328-8173  
Salt Lake City, Utah 84111

2178

DATE

AMOUNT

05/04/99

\$500.00

C. BOYDEN GRAY  
1534 28TH ST., N.W.  
WASHINGTON, DC 20007

MEMO: Refund of Contribution

DELUXE BUSINESS FORMS 1-800-328-7202

1764

## HATCH ELECTION COMMITTEE

257 E. 2005. #950  
SALT LAKE CITY, UT 84111  
PH 801-328-8173

CITY CENTER OFFICE  
BRIGHTON BANK  
SALT LAKE CITY, UTAH 84111  
97-250-1243

**Five hundred dollars and 00 cents**

DATE  
06/12/98

AMOUNT  
\$500.00

C. BOYDEN GRAY  
1534 28TH ST., N.W.  
WASHINGTON, DC 20007

"001764" 12124302503161 01354 6"

10000050000

**Security features included** Details on back

FOR DEPOSIT ONLY  
C. BOYDEN GRAY AG

00009 11059

Page 1 of 1

4-0514, 0550A

13-1

00862001-23

100-443631-10

05400030  
RLOS BAK-N.A  
07/51/98

**4-1508-0121**

05 42

100